

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

DEC 13 2013

Clerk, U.S. District Court
District Of Montana
Missoula

DAVID STEVEN BRAUN,

Plaintiff,

vs.

U.S. GOVERNMENT,

Defendant.

CV 13-36-BU-DWM-JCL

ORDER

Plaintiff David Steven Braun is proceeding *pro se*. He levies a number of complaints against the government in his Complaint. (Doc. 1.) The United States has moved to dismiss Mr. Braun's action with prejudice for lack of subject matter jurisdiction, pursuant to Federal Rule of Civil Procedure 12(b)(1), and for failure to state any claim upon which relief may be granted, pursuant to Federal Rule of Civil Procedure 12(b)(6). (Doc. 39.) Braun has moved to dismiss his case without prejudice so he can seek counsel and potentially re-file his claims in the future. (Doc. 41.) United States Magistrate Judge Jeremiah C. Lynch entered findings and his recommendations regarding the pending motions on November 26, 2013. (Doc. 43.) Pursuant to 28 U.S.C. § 636(b)(1), objections to the Findings and Recommendations entered by Judge Lynch were due December 10, 2013. No

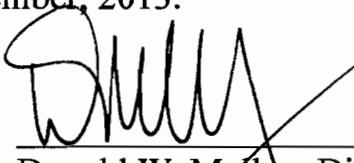
objections were filed.

When no party objects, the Court reviews the findings and recommendations of a United States Magistrate Judge for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error is present only if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

After a review of Judge Lynch’s Findings and Recommendations, I find no clear error. Plaintiff has not alleged a basis for subject matter jurisdiction. Dismissal without prejudice pursuant to Federal Rule 12(b)(1) is appropriate.

IT IS ORDERED that Judge Lynch’s Findings and Recommendations, (Doc. 43), are ADOPTED IN FULL. Braun’s Motion to Dismiss, (Doc. 41), is GRANTED. The United States’ Motion to Dismiss for lack of subject matter jurisdiction pursuant to Rule 12(b)(1), (Doc. 39), is GRANTED. Plaintiff’s Complaint is DISMISSED without prejudice. The Clerk of Court shall close this case.

DATED this 13th day of December, 2013.


Donald W. Molloy, District Judge
United States District Court